

EXHIBIT E

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX**

-----X
**JUAN VILLALON, JUNE BENNETT, JOCELYN
McCALLA, ALEX AFRIFA, BRUNILLA ROBERT,
ANGELITTA HYATT, ADALIS APONTE,
LEONARD THOMAS,**

Plaintiffs,

-against-

**KINGSBRIDGE HEIGHTS REHABILITATION
CARE CENTER and KINGSBRIDGE HEIGHTS
CARE CENTER, INC.,**

Defendants.

Filed:

5/31/07

Index No.:

15806/07

**Plaintiffs designate
Bronx County
as the place of trial.**

S U M M O N S

**The basis of venue is
Defendants' place of
business.**

-----X
To the above named Defendants:

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer on the plaintiffs' attorneys within 20 days after the service of this summons, exclusive of the day of service of this summons, or within 30 days after service of this summons is complete if this summons is not personally delivered to you within the State of New York.

In case of your failure to answer this summons, a judgment by default will be taken against you for the relief demanded in the complaint, together with the costs of this action.

Dated: Farmingdale, New York
May 25, 2007

Yours, etc.,
FRANK & ASSOCIATES, P.C.
Attorneys for Plaintiffs

By:

Netanel Newberger
Netanel Newberger
500 Bi-County Boulevard, 112N
Farmingdale, New York 11735
(631) 756-0400

Kingsbridge Heights Care Center, Inc.
3400 Cannon Place
Bronx, New York 10413

Kingsbridge Heights Rehabilitation Care Center
3400 Cannon Place
Bronx, New York 10413

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX**

**JUAN VILLALON, JUNE BENNETT, JOCELYN
McCALLA, ALEX AFRIFA, BRUNILLA ROBERT,
ANGELITTA HYATT, ADALIS APONTE,
LEONARD THOMAS,**

COMPLAINT

Index No.: **15806 / 07**

Plaintiffs,

-against-

**KINGSBRIDGE HEIGHTS REHABILITATION
CARE CENTER and KINGSBRIDGE HEIGHTS
CARE CENTER, INC.,**

Jury Trial Demanded

Defendants.

X

Plaintiffs **JUAN VILLALON, JUNE BENNETT, JOCELYN McCALLA, ALEX
AFRIFA, BRUNILLA ROBERT, ANGELITTA HYATT, ADALIS APONTE, LEONARD
THOMAS**, by and through their attorneys, **FRANK & ASSOCIATES, P.C.**, complain and allege
as follows:

I. SUMMARY OF CLAIM

1. Plaintiffs bring this action to challenge a pattern and practice of employment discrimination on the basis of race and national origin by Kingsbridge Heights Rehabilitation Care Center and Kingsbridge Heights Care Center, Inc., (collectively "Defendants" or "Kingsbridge") in violation of the New York State Constitution, the New York State Human Rights Law and the New York City Administrative Code.

Plaintiffs seek declaratory and injunctive relief and monetary damages based upon Defendants' violations of the New York State Constitution, Article I Section 11, the New York State Human Rights Law ("NYSHRL"), N.Y. EXEC. LAW § 290, *et seq.* and the New York City Human Rights Law ("NYCHRL"), N.Y. ADM. Code § 8-101, *et. seq* and other appropriate rules, regulations, statutes and ordinance.

III. JURISDICTION AND VENUE

3. This court has jurisdiction over this action pursuant to New York Civil Practice Law and Rules ("C.P.L.R.") § 301.

4. This action properly lies within Bronx County pursuant to C.P.L.R. § 503 because at all times relevant, Defendants conducted business within Bronx County.

IV. PARTIES

5. Plaintiff, **JUAN VILLALON**, is a citizen of the State of New York currently residing in the County of Bronx.

6. Plaintiff, **JUNE BENNETT**, is a citizen of the State of New York currently residing in the County of Kings.

7. Plaintiff, **JOCELYN McCALLA**, is a citizen of the State of New York currently residing in the County of Bronx.

8. Plaintiff, **ALEX AFRIFA**, is a citizen of the State of New York currently residing in the County of Bronx.

9. Plaintiff, **BRUNILLA ROBERT**, is a citizen of the State of New York currently

Plaintiff, **ANGELA HYATT**, is a citizen of the State of New York currently residing in the County of Bronx.

11. Plaintiff, **ADALIS APONTE**, is a citizen of the State of New York currently residing in the County of Bronx.

12. Plaintiff, **LEONARD THOMAS**, is a citizen of the State of Connecticut currently residing in the County of Fairfield.

13. At all times relevant, Plaintiffs were an "employee" within the meaning of NYSHRL § 292(6).

14. At all times relevant, Plaintiffs were a "person" within the meaning of NYSHRL § 292(1) and NYCHRL § 8-102(1).

15. Upon information and belief, Defendant **KINGSBRIDGE HEIGHTS CARE CENTER, INC.**, is a domestic business corporation and is the operator of Defendant **KINGSBRIDGE HEIGHTS REHABILITATION CARE CENTER**, a nursing home facility doing business at 3400 Cannon Place, Bronx New York 10413.

16. At all times relevant, Defendants employed over fifteen (15) employees and were and are an "employer" within the meaning of NYSHRL § 292(5) and NYCHRL § 8-102(5).

V. NATURE OF ACTION

17. Plaintiffs repeat and reallege each and every allegation contained herein.

18. Throughout the course of their employment, Plaintiffs were denied equal employment opportunities as a result of the long term systemic discrimination existing throughout Kingsbridge,

19. Plaintiffs were subject to disparate treatment; specifically, they were treated less favorably, both individually and systematically, than Caucasian employees from Eastern Europe.

20. Kingsbridge's evasion of equal employment laws, policies and plans constitutes disparate treatment and has had a disparate impact on minority employees.

21. Plaintiffs allege that as part of this pattern and practice of discrimination, Kingsbridge discriminated against qualified minority employees: (1) in recruitment; (2) in job classification and assignment; (3) by denying minority employees comparable salaries, raises, and other compensation afforded to Caucasian employees; (4) in the terms and conditions of employment; and (5) by retaliating against employees who assert their civil rights through intimidation, diminishment of work responsibilities, and termination of employment.

VI. STATEMENT OF CLAIMS

22. Plaintiffs repeat and reallege each and every allegation contained herein.

23. Kingsbridge has engaged in a pattern and practice of discrimination and retaliation against its minority employees.

24. This pattern and practice of discrimination and retaliation manifests itself in numerous ways, including the following:

- a. Holding minority employees to a different work standard than their Caucasian counter-parts;
- b. Categorizing minority employees as temporary workers and therefore, unlike

receive the wages and benefits due to them under the Union contract applicable to regular employees.

c. Regularly failing and/or refusing to compensate minority employees for overtime compensation as required by law;

d. Singling out minority employees by criticizing each and every one of them in all aspects of their job. Minority employees are unfairly, disproportionately and more frequently criticized and disrespected than Caucasian employees;

e. Constantly issuing written notices for infractions to minority employees and verbally harassing minority employees;

f. Constantly criticizing minority employees, particularly Hispanic employees, for their inability to communicate and for grammatical errors. Caucasian employees, native to a foreign country, are allowed, without criticism, to speak imperfect English;

g. Regularly and strictly requiring minorities to wear uniforms, whereas Caucasians are not required;

h. Giving preferences to non-minority employees with respect to lunch breaks;

i. Providing non-minority employees working in the Maintenance and Housekeeping Departments with set parking spaces, while their minority counter-parts are not provided with same; and

j. Retaliating against those minority employees who assert their civil rights through intimidation, diminishment of work responsibilities, and termination of employment.

25. Upon information and belief, Kingsbridge has failed to take any curative action to cure the harassment and unlawful treatment of minorities.

AS AND FOR THE FIRST CAUSE OF ACTION
(New York State Constitution)

26. Plaintiffs repeat and reallege each and every allegation contained herein.
27. Defendants have discriminated against Plaintiffs in violation of the Equal Protection Clause of the New York State Constitution, Article I Section 11, by denying Plaintiffs equal terms and conditions of employment, *inter alia*, in recruitment, job classification and assignment, and by compensating minority employees less than similarly situated Caucasian employees.

AS AND FOR THE SECOND CAUSE OF ACTION
(Race/National Origin Discrimination)

29. Plaintiffs repeat and reallege each and every allegation contained herein.
30. Defendants have discriminated against Plaintiffs on account of their race and national origin in violation of the NYSHRL and NYCHRL by denying Plaintiffs equal terms and conditions of employment, *inter alia*, in recruitment, job classification and assignment, and by compensating minority employees less than similarly situated Caucasian employees.

AS AND FOR THE THIRD CAUSE OF ACTION
(Retaliation)

31. Plaintiffs repeat and reallege each and every allegation contained herein.
32. By engaging in the aforementioned actions, Defendants have retaliated against Plaintiffs, because of their complaints of discrimination in violation of the NYSHRL and NYCHRL.

VII. PLAINTIFF'S DEMAND FOR A JURY TRIAL

33. Plaintiffs repeat and reallege each and every allegation contained herein.
34. Plaintiff hereby demands a trial by jury in this action.

VIII. PRAYER FOR RELIEF

WHEREFORE, as a result of the discriminatory conduct and actions of Defendants herein alleged, Plaintiffs demand judgment:

- a. Declaring Defendants have violated the aforementioned statutes;
- b. A permanent injunction enjoining Defendants, their agents, employees, officers and successors in interest and those acting in concert with Defendants, from engaging in the illegal and unlawful customs, policies and practices described herein;
- c. As and for the First Cause of Action, damages in an amount to be determined at trial;
- d. As and for the Second Cause of Action: (a) actual damages for lost past and future earnings, bonuses, and other supplemental employment benefits; (b) compensatory damages, including but not limited to: loss of reputation; emotional and mental distress; and personal humiliation and anguish, in an amount to be determined at trial; (c) equitable and injunctive relief; (d) costs and disbursements incurred in this action; and (e) punitive damages and reasonable attorneys' fees pursuant to the NYCHRL;
- e. As and for the Third Cause of Action: (a) actual damages for lost past and future earnings, bonuses, and other supplemental employment benefits; (b) compensatory

damages, including but not limited to: loss of reputation; emotional and mental distress; and personal humiliation and anguish, in an amount to be determined at trial; (c) equitable and injunctive relief; (d) costs and disbursements incurred in this action; and (e) punitive damages and reasonable attorneys' fees pursuant to the NYCHRL;

- f. Pre and post judgment interest; and
- g. For such other and further relief the Court deems just and proper.

Dated: Farmingdale, New York
May 25, 2007

FRANK & ASSOCIATES, P.C.
Attorneys for Plaintiff

By: *Netanel Newberger*
Netanel Newberger
500 Bi-County Blvd., Suite 112N
Farmingdale, New York 11735
Tel.: (631) 756-0400

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX**

-----X
**JUAN VILLALON, JUNE BENNETT, JOCELYN
McCALLA, ALEX AFRIFA, BRUNILLA ROBERT,
ANGELITTA HYATT, ADALIS APONTE,
LEONARD THOMAS,**

Index No.:

Plaintiff,

- against -

**KINGSBRIDGE HEIGHTS REHABILITATION
CARE CENTER and KINGSBRIDGE HEIGHTS
CARE CENTER, INC.,**

Defendants,

-----X

COMPLAINT

**FRANK & ASSOCIATES, P.C.
ATTORNEY FOR PLAINTIFF
500 BI-COUNTY BLVD, SUITE 112N
FARMINGDALE, NY 11735
(631) 756-0400**

3400-26 Cannon Place Bronx New York 10463
Phone # 718-796-8100 ext 100
Fax # 718-796 - 8182

**Kingsbridge Heights
Rehabilitation Care
Center**

Fax

To:	Mr. Joel Cohen Esq.	From:	Larry Abrams
Fax:	<u>212-547-5444</u>	Pages:	12
Phone:		Date:	Tuesday, June 12, 2007
Re:		CC:	

☐ Urgent ☒ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

• **Comments:** Received this by courier today. I made a copy and faxed it over to you as per Ms. Sieger